

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	MDL No. 1456
IN RE PHARMACEUTICAL INDUSTRY)	Master File No. 01-12257-PBS
AVERAGE WHOLESALE PRICE LITIGATION)	
_____)	Judge Patti B. Saris
)	
THIS DOCUMENT RELATES TO:)	
State of California, <i>ex rel.</i> Ven-A-Care v.)	
Abbott Laboratories, <i>et al.</i>)	
01-cv-12257-PBS and 03-cv-11226-PBS)	
_____)	

**DECLARATION OF JOHN P. FISHER IN SUPPORT OF EX PARTE
APPLICATION BY THE STATE OF CALIFORNIA FOR ENLARGEMENT OF TIME**

I, John P. Fisher, hereby declare and state as follows:

1. I am a Deputy Attorney General for the State of California ("California"). I am admitted to practice *pro hac vice* in this judicial district for the purposes of this action.
2. I make this declaration in support of the California's ex parte application for an enlargement of time to effect service.
3. Counsel for Boehringer Ingelheim Pharmaceuticals, Inc. ("BIPI"), Mr. Brent Caslin of Kirkland & Ellis and the State of California have agreed to extend the time for service to enable further evaluation, by California, regarding California's allegations against BIPI as set forth in *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL 1456, Master File No. 01-12257-PBS.
4. California is pursuing this evaluation, which will not be complete until after the current 120 day deadline in which to serve all defendants, specifically December 23, 2005.


5. Plaintiff and BIPI have discussed and agreed upon California's filing of the Ex Parte Application For Enlargement of Time. The parties have agreed that the time for the State to serve BIPI should be enlarged by sixty days, or until February 21, 2006. Attorneys for BIPI are in agreement and, as such, will not be filing any papers in opposition. Relators in this case, Ven-A-Care of the Florida Keys, also agree with this request for enlargement of time.

6. On December 20, 2005, I telephoned counsel for BIPI, Mr. Brent Caslin of Kirkland & Ellis, and informed him of this application, and he confirmed his client's acquiescence in this application.

7. This application is made in good faith based on the consensus among the parties concerning California's continuing evaluation of its allegations against BIPI. If the complaint was served on BIPI within the original 120 days allowed for service, any progress towards California's evaluation of other alternatives would have been lost.

I declare under penalty of perjury that the foregoing is true and correct.

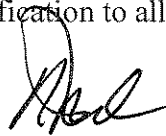
Executed on December 20, 2005

By: 
JOHN P. FISHER
Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I, John P. Fisher, Deputy Attorney General, Bureau of Medi-Cal Fraud and Elder Abuse, for the State of California, caused a true and correct copy of the foregoing **Ex Parte Application By The State of California For Enlargement of Time to Effect Service; [Proposed] Order; Memorandum of Points and Authorities In Support of Ex Parte Application and Declaration of John P. Fisher** to be served electronically on counsel of record pursuant to Paragraph 11 of the Case Management Order No. 2, by sending a copy to LexisNexis File and Service for posting and notification to all parties.

Dated: December 20, 2005



Nicholas N. Paul
Deputy Attorney General